

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

CYRIS GILBERT,

Case No. 3:20-cv-00470-MMD-CLB

Plaintiff

**ORDER**

v.

STATE OF NEVADA, ex rel.  
NEVADA DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants

**I. DISCUSSION**

On August 17, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted an application to proceed *in forma pauperis* and an emergency motion for TRO/injunction. (ECF Nos. 1, 1-1). Plaintiff has not submitted a complaint or a fully complete application to proceed *in forma pauperis*.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **October 19, 2020** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

1       Plaintiff has not submitted an application on this Court's approved form together  
2 with a financial certificate and an inmate account statement for the previous six-month  
3 period. Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*  
4 (ECF No. 1) without prejudice because the application is incomplete. The Court will grant  
5 Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*  
6 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete  
7 application to proceed *in forma pauperis* on or before **October 19, 2020**. Absent unusual  
8 circumstances, the Court will not grant any further extensions of time. If Plaintiff is unable  
9 to file a fully complete application to proceed *in forma pauperis* with all three required  
10 documents on or before **October 19, 2020**, the Court will dismiss this case without  
11 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all  
12 three of the documents needed to file a fully complete application to proceed *in forma*  
13 *pauperis* or pays the full \$400 filing fee.

14       A dismissal without prejudice means Plaintiff does not give up the right to refile the  
15 case with the Court, under a new case number, when Plaintiff has all three documents  
16 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff  
17 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
18 full filing fee of \$400 on or before **October 19, 2020** to proceed with this case.

19       Plaintiff is advised that the Court will not consider his emergency motion for  
20 TRO/injunction (ECF No. 1-1) until Plaintiff files a complaint and a fully complete  
21 application to proceed *in forma pauperis* with all three required documents or pays the  
22 full \$400 filing fee.,

23 **II. CONCLUSION**

24       For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to  
25 this Court on or before **October 19, 2020**.

26       IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the  
27 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The  
28 Clerk of the Court will also send Plaintiff a copy of his emergency motion for

1 TRO/injunction. (ECF No. 1-1).

2 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*  
3 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed  
4 *in forma pauperis* with all three documents.

5 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the  
6 approved form application to proceed *in forma pauperis* by an inmate, as well as the  
7 document entitled information and instructions for filing an *in forma pauperis* application.

8 IT IS FURTHER ORDERED that on or before **October 19, 2020**, Plaintiff will either  
9 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50  
10 administrative fee) or file with the Court:

11 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
12 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
13 signatures on page 3),

14 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
15 official (i.e. page 4 of this Court's approved form), and

16 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
17 **previous six-month period.**

18 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully  
19 complete application to proceed *in forma pauperis* with all three documents or pay the full  
20 \$400 filing fee for a civil action on or before **October 19, 2020**, the Court will dismiss this  
21 action without prejudice for Plaintiff to refile the case with the Court, under a new case  
22 number, when Plaintiff is able to file a complaint and has all three documents needed to  
23 file a complete application to proceed *in forma pauperis* or pays the full \$400 filing fee.

24 DATED: August 19, 2020

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26 UNITED STATES MAGISTRATE JUDGE  
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